

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 91-147-C - ORDER NO. 91-514 ✓
JUNE 17, 1991

IN RE: Application of Affinity Network, Inc.)	
for a Certificate of Public Convenience)	ORDER
and Necessity to Operate as a Reseller)	GRANTING
of Intrastate Telecommunications Service.)	CERTIFICATE

This matter is before the Public Service Commission of South Carolina (the Commission) by way of the application of Affinity Network, Incorporated (Affinity) requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of telecommunications services in the State of South Carolina. Affinity's application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1990) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Affinity to publish a prepared Notice of Filing in newspapers of general circulation in the affected areas once a week for two consecutive weeks. The purpose of the Notice of Filing was to inform interested parties of Affinity's application and the manner and time in which to file the appropriate pleadings for participation in the proceeding. Affinity complied with this instruction and provided the Commission with proof of publication of the Notice of

Filing. Petitions to Intervene were filed by Southern Bell Telephone & Telegraph Company (Southern Bell) and the South Carolina Department of Consumer Affairs (the Consumer Advocate).

A hearing was commenced on Wednesday, May 29, 1991, at 11:30 a.m. in the Commission's Hearing Room. The Honorable Henry G. Yonce presided. Carl F. McIntosh, Esquire, represented the Consumer Advocate; Fred A. Walters, Esquire, represented Southern Bell; and Gayle B. Nichols, Staff Counsel, represented the Commission Staff.¹

At the beginning of the hearing Southern Bell introduced a letter from its counsel Harry M. Lightsey, III, to the Commission's Executive Director which stated Affinity agreed not to complete intraLATA calls and if intraLATA calls were inadvertently completed Affinity would reimburse Southern Bell. Hearing Exhibit 1. Affinity did not object to the introduction of this letter. Based upon the representations in this letter, Southern Bell did not actively participate in the hearing.

Affinity presented the testimony of Samuel P. Delug in support of its application. Mr. Delug explained Affinity's request for certification to operate as a reseller of interexchange telecommunications services in South Carolina. He outlined Affinity's financial qualifications, background, and technical capabilities. Mr. Delug explained that public convenience and necessity required issuance of Affinity's

1. Affinity was not represented by counsel.

requested certificate, particularly because it provides customized billing and individualized customer service. Mr. Delug testified Affinity was certified as a long distance reseller in seven or eight other states.

After full consideration of the applicable law and of the evidence presented by Affinity, the Consumer Advocate, Southern Bell and the Commission Staff, the Commission hereby issues its findings of fact and conclusions of law.

FINDINGS OF FACT

1. Affinity is incorporated under the laws of the State of California and has a certificate of authority to transact business as a foreign corporation in the State of South Carolina.

2. Affinity operates as a reseller of long distance telecommunications. Presently, Affinity purchases AT&T's Software Defined Network service as part of its reseller operations. Affinity will rely on AT&T to provide all switching functions, billing information, and all originating and terminating transmission facilities in conjunction with local exchange company provided access service.

3. Affinity will provide its own billing and collection services.

4. Affinity does not intend to provide any operator services. If a customer desires operator services, the customer will be directed to Affinity's underlying carrier's operators.

5. Affinity has the experience, capability, and financial resources to provide the services as described in its application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a certificate of public convenience and necessity should be granted to Affinity to provide intrastate, interLATA service through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Services, or any other services authorized for resale by tariffs of facility-based carriers approved by the Commission.

2. Affinity shall only use network services which either block or switch to the local exchange carrier (LEC) intraLATA calls which are attempted over the network. If Affinity incidentally or accidentally completes any intraLATA calls, the LEC shall be compensated by Affinity as ordered by the Commission in Order No. 86-793, issued August 5, 1986, in Docket No. 86-187-C.

3. The Commission adopts a rate design for Affinity which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate level with the flexibility for adjustment below the maximum rate level has been previously adopted by the Commission. In Re: Application of GTE Sprint Communication Corporation etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984). The Commission adopts Affinity's proposed maximum rate tariffs.

4. Affinity shall not adjust its rates below the approved maximum level without notice to the Commission and to the public.

Affinity shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of Affinity's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1990).

5. For the provision of intrastate telecommunications service Affinity may only use underlying facility-based carriers that are certified by this Commission to provide such service. Affinity shall notify the Commission in writing of its underlying carrier(s) and of any change in its carrier(s).

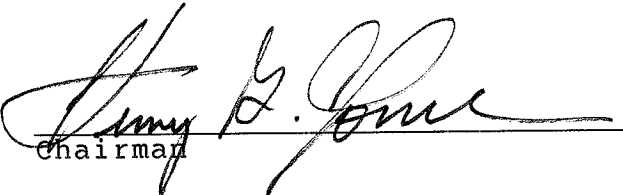
6. Affinity shall file its tariff and an accompanying price list to reflect the Commission's findings within thirty (30) days of the date of this Order.

7. Affinity is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

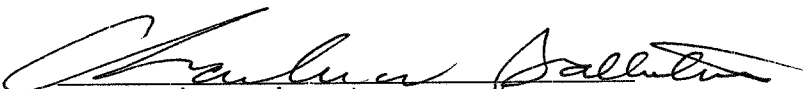
8. Affinity shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

IT IS SO ORDERED.

BY ORDER OF THE COMMISSION:

VICE  chairman

ATTEST:


Executive Director

(SEAL)

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS

FOR INTEREXCHANGE COMPANIES AND AOS'S

(1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

(2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

(3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

*THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION, MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER DEPOSITS.

(4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING _____.

*THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

(5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

(6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3 ABOVE).